

## **GUIDELINES FOR CONSENT ORDERS RESOLVING STAY RELIEF MOTIONS IN CONSUMER CASES**

### **1. Proposed orders need not recite facts**

- a. Prior acts or omissions, including a history of prior payments made or missed, need not be separately described.
- b. The order should prescribe only future obligations, including for example required payments or filing amended or modified plans.
- c. If you believe prior acts or omissions must be included, please describe them in the preamble, not in the ordering paragraphs.

### **2. Required Notice**

- a. The proposed order must provide for service of the ex parte motion, affidavit and other supporting materials on debtors and their attorney (if debtors have counsel).
- b. To ensure that debtors (and their counsel) receive adequate notice of the request for default relief, the judge typically holds the proposed orders for five days before considering them.

### **3. Attorney Fee Limitations**

- a. Consent orders/APOs containing requests for fees and costs totaling more than \$526.00 must be set for hearing.

### **4. Relief Not Permitted in Consent Orders**

- a. The judge will not sign proposed orders that:
  - i. provide for abandonment of property in the event of default.
  - ii. include language stating that any relief granted is *res judicata* if the case is converted to a proceeding under another chapter of the Bankruptcy Code.
  - iii. recite that default relief will be granted on submission of an affidavit only. Local Rule 4001-3 requires that a party seeking stay relief for default of a consent order file a motion for relief, affidavit and copy of the consent order.
  - iv. immediately place the debtor in default. For example, the judge will not sign a consent order requiring the filing of an amended plan by a date already past, if no amended plan was filed by that date.
  - v. state a creditor can "immediately" foreclose in the event of default.
  - vi. state an affidavit may be submitted by a successor or assign of creditor.
  - vii. provide that relief will be granted to a successor or assign of creditor.